

AMENDED IN SENATE APRIL 10, 2000

AMENDED IN SENATE MARCH 28, 2000

**SENATE BILL**

**No. 1486**

**Introduced by Senator Schiff**

February 11, 2000

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An act to amend Section 602.5 of the Penal Code, relating to trespass.

LEGISLATIVE COUNSEL'S DIGEST

SB 1486, as amended, Schiff. Aggravated trespass.

Existing law makes every person who enters and remains in any noncommercial dwelling without the consent of the owner guilty of a misdemeanor, with the exception of specified public officers and employees.

This bill would make every person, with the exception of specified public officers and employees, who enters an ~~inhabited~~ noncommercial residence ~~between the hours of 10:00 p.m. and 6:00 a.m.~~ without the owner's consent, *while a resident, or another person authorized to be in the dwelling, is present at any time during the course of the incident*, guilty of aggravated trespass punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than \$1,000, or by both that fine and imprisonment, ~~and would provide that for a 2nd or subsequent conviction, the person would be subject to that fine and to imprisonment in a county jail for not more than one year, or to imprisonment in the state prison.~~ This bill would also authorize the court, if a person is convicted of a misdemeanor violation of aggravated trespass,

to order up to 3 years of supervised probation and to issue an order restraining the defendant from any contact with the victim, that may be valid for up to 5 years, upon consideration of specified factors.

By changing the penalty for a crime, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 602.5 of the Penal Code is  
2 amended to read:

3 602.5. (a) Every person other than a public officer or  
4 employee acting within the course and scope of his or her  
5 employment in performance of a duty imposed by law,  
6 who enters or remains in any noncommercial dwelling  
7 house, apartment, or other residential place without  
8 consent of the owner, his or her agent, or the person in  
9 lawful possession thereof, is guilty of a misdemeanor.

10 (b) Every person other than a public officer or an  
11 employee acting within the course and scope of his  
12 employment in performance of a duty imposed by law,  
13 ~~who between the hours of 10:00 p.m. and 6:00 a.m.,~~  
14 ~~without the consent of the owner, his or her agent, or the~~  
15 ~~person in lawful possession thereof,~~ enters or remains in  
16 any ~~inhabited~~ noncommercial dwelling house,  
17 apartment, or other residential place ~~without the consent~~  
18 ~~of the owner, his or her agent, or the person in lawful~~  
19 ~~possession thereof, while a resident, or another person~~  
20 ~~authorized to be in the dwelling, is present at any time~~  
21 ~~during the course of the incident~~ is guilty of aggravated  
22 trespass punishable by imprisonment in a county jail for  
23 not more than one year or by a fine of not more than one

1 thousand dollars (\$1,000), or by both that fine and  
2 imprisonment.

3 ~~(e) In addition to the penalties provided in this~~  
4 ~~section, the sentencing court~~

5 *(c) If the court grants probation, it may order a person*  
6 *convicted of a misdemeanor under subdivision (b) to up*  
7 *to three years of supervised probation. If probation is*  
8 ~~granted, it~~ *It shall be a condition of probation that the*  
9 *person participate in counseling, as designated by the*  
10 *court.*

11 *(d) If a person is convicted of a misdemeanor under*  
12 *subdivision (b), the sentencing court shall also consider*  
13 *issuing an order restraining the defendant from any*  
14 *contact with the victim, that may be valid for up to five*  
15 *years, as determined by the court. In determining the*  
16 *length of the restraining order, the court shall consider,*  
17 *among other factors, the seriousness of the facts before*  
18 *the court, the probability of future violations, and the*  
19 *safety of the victim and his or her immediate family.*

20 ~~(e) Every person who, having been convicted of an~~  
21 ~~aggravated trespass misdemeanor under subdivision (b),~~  
22 ~~commits a second or subsequent violation of this section~~  
23 ~~shall be punished by imprisonment in a county jail for not~~  
24 ~~more than one year or by a fine of not more than one~~  
25 ~~thousand dollars (\$1,000), or by both that fine and~~  
26 ~~imprisonment, or by imprisonment in the state prison.~~

27 ~~(f)~~

28 *(e) Nothing in this section shall preclude prosecution*  
29 *under Section 459 or any other provision of law.*

30 SEC. 2. No reimbursement is required by this act  
31 pursuant to Section 6 of Article XIII B of the California  
32 Constitution because the only costs that may be incurred  
33 by a local agency or school district will be incurred  
34 because this act creates a new crime or infraction,  
35 eliminates a crime or infraction, or changes the penalty  
36 for a crime or infraction within the meaning of Section  
37 17556 of the Government Code, or changes the definition

1 of a crime within the meaning of Section 6 of Article  
2 XIII B of the California Constitution.

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